

REMARKS

The Examiner has again rejected the claims under 35 USC 102(a) over Franklin et al (Franklin) in view of Yang et al (Yang) for the reasons previously recited in the prior rejection.

Applicant has amended the claims to more clearly set forth the present invention and distinguished over the prior art. In particular, the present invention as currently set forth in independent claim 32, is directed to a method for storing electronic photographic images; wherein there is provided access to a server having stored electronic images taken by a photographer at an event. These images are accessed utilizing a communication public network. Claim 32 as amended, also sets forth that a server stores an event profile with respect to the event that has information relating to the event. Information that may be provided in the event profile is set forth at page 8, lines 1-4. For example, but not limited to, the name of the event and/or photographic subject, the date the event takes place and the price list and our package to be used by host or guest when ordering merchandise associated with the event. Claim 32 also sets forth that the server provides access to the electronic photographic images stored in the picture memory by the photographer and customers of the photographer having correct access information. Thus, the access to the images is not public, but is restricted to those individuals having the correct access information. The order interface further provides access to an image profile only by the photographer and the host of the event, which is adapted to sequence and caption the story electronic photographic images for display to customers of the photographer. It can be seen that independent claim 32 is directed to the sale of images/image products taken by photographers, such as professional photographers at events, such as weddings, graduations, athletic contests, parties or other gatherings. See page 1, lines 18-22.

The Examiner cites Franklin, in combination with Yang, as disclosing the present invention. However, these two references, even when combined together, still fail to teach or suggest many features of independent claim 32.

The Examiner acknowledges that Franklin and Yang are directed to different types of systems, i.e., Franklin is directed to e-commerce type situations, whereas Yang is directed to organizing multimedia. The Examiner asserts that the combination would have been obvious to one of ordinary skill in the art at the time the invention was made, as this would allow customers to purchase pictures arranged by album, author or photographer. However, Applicant respectfully submits that there is no motivation, teaching or suggestion for combining the references. The Yang reference is directed to organizing multimedia of a user on a personal PC. It is almost always possible to find individual pieces of an invention in the prior art and piecemeal the invention together to arrive at Applicant's invention. However, the use of hindsight is not appropriate. It is respectfully submitted that Franklin teaches no more than commerce that may be provided on the Internet and Yang discloses nothing more than simply organizing images that may be accessed by other individuals. These two references are directed to two totally different fields that are unrelated to each other. There would be no basis to combine one reference with the other. It is respectfully submitted that the combination is not appropriate as there is no reason or suggestion to combine them.

Assuming that the references could be combined together, the combination of these two references, still fail to teach or suggest the present invention for a number of reasons. First, neither one of these references teach or suggest the capture of images at an event. While Yang discloses the organization of multimedia, there is no teaching or suggestion that a photographer at an event capture images for placement on a server and for later access as taught and claimed by Applicant. Secondly, there is no teaching or suggestion, of providing an event profile with respect to the event for providing information relating to the event as taught and claimed. Yang discloses organization of multimedia files, however, it does not teach or suggest providing an event profile as taught and claimed by Applicant. Third, Applicant specifically sets forth that access is provided to customers having the correct access information. What is disclosed in Yang et al is simply the publication of images to anyone. The present invention is directed to controlled access, which is not taught or suggested in either of the references cited. Lastly, claim 32 includes an image profiler that is accessed only by the photographer or host, which is adapted to sequence and caption, as stored

electronic photographic images that are to be displayed to customers of the photographer.

In order to render a claim obvious, each and every element of the claims must be disclosed. The prior art fails to teach or suggest capturing of images at an event, wherein an even profile with respect to the event is provided on a server that is accessible by a photographer and customers of the photographer, having correct access information and also providing an order interface that provides access to an image profiler only by the photographer and/or host of the event that is adapted to sequence and caption that stores electronic images.

The Examiner states in the response to Applicant's argument that

"it is conceivable that a user, in addition to purchasing a refrigerator, could purchase a picture, said picture being accompanied by a picture of the picture (to know what you are buying), as well as product information and SKU, price, etc. Thus, as Yang teaches the user creating an album to allow others interested in the album content (i.e. friends, family) to view pictures they are interested in within their own browser and Franklin teaches user e-commerce to buy anything, it would have been obvious for a customer to purchase photographs on-line via an organized album or pictures sorted and described by the author." (Emphasis supplied)

The fact that something may be "conceivable", is not the standard or test of whether something is obvious in view of the prior art. Applicant respectfully submits that the Examiner's has attempted piece-meal reconstruction the present invention not based on any teaching or suggestion in the art, but conjecture as to what may or may not happen. It is almost always possible to put individual items together; however, there must be some teaching or suggestion in the prior of making the combination as suggested by the Examiner. Further, as previously discussed, the prior art fails to teach or suggest all of the claim limitations.

The Examiner on page 2 of the Official Action cites Col. 4, lines 15-43 and Col. 10, lines 17-28 of Franklin for showing capturing images by a photographer at an event. Applicants have reviewed these two sections and not see any reference to a photographer capturing images at an event. An event as described in applicant's application at page 1, lls18-23 are describes a weddings, athletic contest, parties or other gathering with the intention of selling prints and other merchandise based on these photographs to the event's participants and to others interested in the proceeding. There is no teaching or suggestion of

capturing images by a photographer at an event as taught and claimed. The cited pages merely describe e-commerce of items that are illustrated by pictures.

With regard to claims 33 and 34, these have been amended similar to the manner in which claim 32 was amended and appears to be patentably distinct for the same reasons previously discussed.

In view of the foregoing, Applicant respectfully submits that the claims in their present form are in condition for allowance and such action is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Frank Pincelli', written over a horizontal line.

Attorney for Applicant(s)
Registration No. 27,370

Frank Pincelli/jpc
Rochester, NY 14650
Telephone: 585-722-3335
Facsimile: 585-477-4646

If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.